

OCA FILE LEG; Sen Mitchell
DCI; Sen Dole

25 JUL 1989

OCA 2304-89

MEMORANDUM FOR: Director of Central Intelligence

FROM: E. Norbert Garrett
Director of Congressional Affairs

SUBJECT: The Aviation and Terrorism Commission Act of
1989

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1. Attached for your signature are letters to Majority Leader Mitchell and Minority Leader Dole opposing legislation investigating aviation security and the downing of Pan Am 103. The letters have been approved by the Office of Management and Budget (OMB).

2. Senators Mitchell and Dole will meet with Secretary Skinner, Secretary Baker and Attorney General Thornburgh at 3:45 pm on 25 July. Since the attached letters provide support to the Administration position, it would be beneficial if the letters could be received by Senators Mitchell and Dole prior to the 3:45 meeting.

3. It is highly probable that Senator Mitchell will decide to proceed with this legislation. If this occurs, we plan to offer changes in the language which are designed to better protect Agency equities.

[Redacted Signature Box]

for E. Norbert Garrett

Attachments

OCA/LEG, [Redacted] (24 July 89)

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Distribution:

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STAT

Central Intelligence Agency



Washington, D.C. 20505

25 JUL 1989

OCA 2215-89

The Honorable George J. Mitchell
Majority Leader of the Senate
United States Senate
Washington, D.C. 20510

Dear Senator Mitchell:

I write to supplement the June 21, 1989 letter submitted to you by Secretary Baker, Attorney General Thornburgh, and Secretary Skinner on the legislative proposals to investigate aviation security and the bombing of Pan Am 103.

For the reasons set forth below, the Central Intelligence Agency cannot support enactment of these legislative initiatives.

The various proposals would establish a commission, composed of representatives from the legislative and executive branches (to include a representative from the Intelligence Community) and the private sector, to investigate the crash of Pan Am Flight #103 (21 December 1988). Depending upon the legislative proposal, the commission would have from six to nine months in order to complete its investigation and issue a final report. During its investigation, the commission could request from Federal agencies any relevant information, including classified information, subject to certain conditions. Among other subjects, the commission would be required to assess "the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices, including procedures and practices involving the gathering, assessment, and distribution of intelligence."

The Agency is concerned about the commission being given, in effect, a mandate to judge the sufficiency of counterterrorism intelligence collection, assessment, and distribution efforts. As the head of the Intelligence Community, the Director of Central Intelligence is continually evaluating the sufficiency of all United States Government intelligence efforts. These judgments obviously require intelligence expertise as well as knowledge of both the scope

The Honorable George J. Mitchell

and priorities of the entire national intelligence mission and the resources available to support that mission. We question whether the commission would be equipped, given its short time frame and otherwise broad responsibilities, to make a truly meaningful assessment and whether, in any event, the sensitive intelligence information necessary to make such an assessment should be disseminated outside the Intelligence Community.

Despite the information protection provisions contained in the legislation, there remains the risk that sensitive counterterrorism intelligence sources and methods could be inadvertently disclosed in the course of the commission's investigation. Moreover, any interaction with the commission on demands for sensitive intelligence source and method information would likely require the involvement of those personnel who directly support the counterterrorism effort, thereby detracting from their ability to support that effort.

We also note that the commission's mandate appears to duplicate the oversight functions of the President's Foreign Intelligence Advisory Board as well as the intelligence oversight committees of the Congress.

For these reasons, we cannot support enactment of this legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the program of the President.

This letter has also been sent to Senator Dole.

Sincerely,

/s/ William H. Webster

William H. Webster
Director of Central Intelligence

Central Intelligence Agency



Washington, D.C. 20505

25 JUL 1989

OCA 2216-89

The Honorable Robert J. Dole
Minority Leader of the Senate
United States Senate
Washington, D.C. 20510

Dear Senator Dole:

I write to supplement the June 21, 1989 letter submitted to you by Secretary Baker, Attorney General Thornburgh, and Secretary Skinner on the legislative proposals to investigate aviation security and the bombing of Pan Am 103.

For the reasons set forth below, the Central Intelligence Agency cannot support enactment of these legislative initiatives.

The various proposals would establish a commission, composed of representatives from the legislative and executive branches (to include a representative from the Intelligence Community) and the private sector, to investigate the crash of Pan Am Flight #103 (21 December 1988). Depending upon the legislative proposal, the commission would have from six to nine months in order to complete its investigation and issue a final report. During its investigation, the commission could request from Federal agencies any relevant information, including classified information, subject to certain conditions. Among other subjects, the commission would be required to assess "the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices, including procedures and practices involving the gathering, assessment, and distribution of intelligence."

The Agency is concerned about the commission being given, in effect, a mandate to judge the sufficiency of counterterrorism intelligence collection, assessment, and distribution efforts. As the head of the Intelligence Community, the Director of Central Intelligence is continually evaluating the sufficiency of all United States Government intelligence efforts. These judgments obviously require intelligence expertise as well as knowledge of both the scope

The Honorable Robert J. Dole

and priorities of the entire national intelligence mission and the resources available to support that mission. We question whether the commission would be equipped, given its short time frame and otherwise broad responsibilities, to make a truly meaningful assessment and whether, in any event, the sensitive intelligence information necessary to make such an assessment should be disseminated outside the Intelligence Community.

Despite the information protection provisions contained in the legislation, there remains the risk that sensitive counterterrorism intelligence sources and methods could be inadvertently disclosed in the course of the commission's investigation. Moreover, any interaction with the commission on demands for sensitive intelligence source and method information would likely require the involvement of those personnel who directly support the counterterrorism effort, thereby detracting from their ability to support that effort.

We also note that the commission's mandate appears to duplicate the oversight functions of the President's Foreign Intelligence Advisory Board as well as the intelligence oversight committees of the Congress.

For these reasons, we cannot support enactment of this legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the program of the President.

This letter has also been sent to Senator Mitchell.

Sincerely,

/s/ William H. Webster

William H. Webster
Director of Central Intelligence

OCA 2113-89
7 July 1989

MEMORANDUM FOR: Director of Central Intelligence

FROM: E. Norbert Garrett
Director of Congressional Affairs

SUBJECT: Legislative Proposal to Investigate Aviation
Security and the Bombing of Pan Am 103

1. Please provide your concurrence to submit for Office of Management and Budget clearance the attached position paper objecting to legislative proposals for the establishment of a commission to investigate aviation security and the bombing of Pan Am 103.

2. On 21 June 1989, Secretary of Transportation Skinner, Secretary of State Baker, and Attorney General Thornburgh submitted a letter to Senate Majority Leader Mitchell and Senate Minority Leader Dole strongly objecting to this legislative proposal. Their letter cited, among other items, the concern that such a commission would "intrude upon our ability to enhance aviation security and prosecute the culprits of this despicable act."

3. Due to the fact that the Agency has additional equities which are harmed by this legislation, I think a letter from you is also advisable. The Department of Transportation would welcome your input.



E. Norbert Garrett

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Attachment

CONCUR:



Director of Central Intelligence

7/11/89

Date

STAT

Central Intelligence Agency



Washington, D.C. 20505

18 JUL 1989

OCA 2219-89

Mr. James C. Murr
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

Enclosed is a draft letter to Majority Leader Mitchell providing the views of the Central Intelligence Agency on legislative proposals to establish a commission to investigate aviation security and the bombing of Pan Am 103. The draft letter has been approved by the Director of Central Intelligence. We request that you review the report to determine whether it is consistent with the Administration's program.

Because action on legislative proposals establishing a commission may occur in the very near future, I would appreciate our request being handled by 21 July 1989.

Sincerely,



E. Norbert Garrett
Director of Congressional Affairs

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Enclosure

THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590



June 21, 1989

The Honorable George J. Mitchell
United States Senate
Washington, D.C. 20510

Dear Senator Mitchell:

We are aware of a number of legislative proposals to investigate aviation security in the wake of the bombing of Pan Am 103. While we are fully willing to work with the Congress to address the continuing concerns of the families of Pan Am 103, we are very concerned that any commission or special panel to investigate Pan Am 103 in particular or aviation generally would intrude upon our ability to enhance aviation security and prosecute the culprits of this despicable act.

This Administration, various committees of the Congress, the General Accounting Office, the International Civil Aviation Organization, and many foreign governments and civil aviation authorities already have conducted and are continuing to conduct exhaustive reviews of Pan Am 103 and civil aviation security. The FAA is conducting its own regulatory investigation of Pan Am 103, which is expected to be completed in the near future. At this moment, one of the largest international criminal investigations ever undertaken is being conducted by the Federal Bureau of Investigation with Scottish, British and West German authorities. Adding another layer of investigation to this issue would be unnecessary and disruptive.

The Administration is especially concerned because of the potential for the proposed Commission to interfere with and adversely affect this major criminal investigation. The investigation is ongoing, with new evidence and leads being continuously uncovered and examined. Specific concerns counseling against passage of this bill include the danger of inadvertent compromise of confidential sources or classified material; the loss of investigative leads and even further loss of life that could result from unnecessary public disclosure of information relating to the investigation; and the overall confusion and detrimental effect on the criminal investigation that would be caused by the introduction of an investigating committee into this matter at a time when criminal investigators and prosecutors are still at work. At this point, the Administration believes that there is a significant risk that passage of this bill would seriously undermine the United State's ability to fully assist in the apprehension and prosecution of those responsible for this terrible act. For these reasons alone, we would therefore urge in the strongest possible fashion that this legislation not be enacted.

In addition, we must tread carefully to ensure continued cooperation with other involved nations. Many foreign countries have concerns regarding their sovereignty and are sensitive to having U.S. investigators in their countries or the extraterritorial application of U.S. aviation security regulations to foreign flag carriers. It would be counterproductive to have an independent commission examining in a public way the nature of the cooperative relationships we have developed, which are in some cases sensitive. Any release of sensitive information, even where not classified, could seriously hamper efforts to combat terrorist activities, cause the sources of that information to dry up, and endanger the lives of those who provide it.

There already has been intense Congressional attention and scrutiny of the Pan Am 103 situation. The topic of aviation security has received much attention and scrutiny by the 101st Congress. Pan Am 103 has been the subject of six public hearings by Senate and House subcommittees and five closed door Congressional briefings to discuss sensitive matters, including sessions with the Senate and House Intelligence Committees.

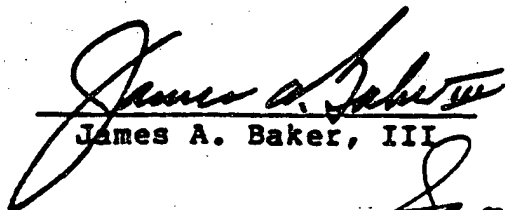
The President and other high level Administration officials have met with representatives of the families of the Pan Am 103 victims. We were deeply moved by these meetings and share the families' grief and goals of bringing the Pan Am 103 culprits to justice and enhancing aviation security. The President directed us to address their concerns as a top priority. Since the bombing, a special ministerial session of the International Civil Aviation Organization was held at U.S. initiative to discuss and enhance worldwide aviation security standards. On April 3rd, the Administration announced a sweeping series of security initiatives designed to further enhance security. The Department of Transportation, the Department of State and the National Security Council already have undertaken significant steps to improve our overall procedures for aviation security. We are working on even more initiatives.

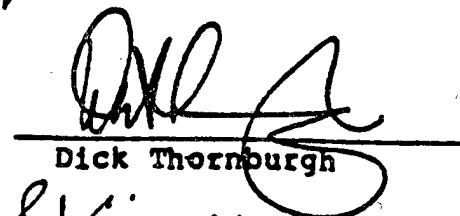
While we do not believe that the creation of an independent commission to review aviation security is in the best interest of the country or the safety of the travelling public, we are committed to taking every possible action to prevent further terrorist activities such as the bombing of Pan Am 103. We would, therefore, welcome the opportunity to work with you and your staffs to develop an alternative solution that addresses your concerns which would be less likely to impede the ongoing criminal investigation. This might include the possible formation of a

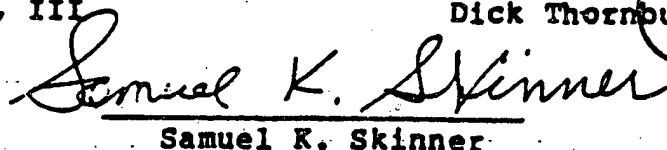
3

combined executive and legislative branch working group on aviation security. We look forward to hearing from you as soon as practicable regarding the formation of such a working group or other options for executive and legislative branch cooperation on this important issue.

Sincerely,


James A. Baker, III


Dick Thornburgh


Samuel K. Skinner

Identical letter sent to : The Honorable Robert Dole
United States Senate
Washington, D.C. 20510

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Letters to Senators Mitchell and Dole Re: Aviation and
Terrorism Act of 1989

FROM:

E. Norbert Garrett
Director of Congressional Affairs

EXTENSION

NO.

OCA 2215 & 2216-89

DATE

25 JUL 1989

TO: (Officer designation, room number, and
building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1. Executive Registry

25 JUL 1989

2.

Deputy Director of
Central Intelligence

7/25 7/25

5. Director of Central
Intelligence11:15 am
25 July 7/25

6.

7. Return to Director of
Congressional Affairs
7 D 43

8.

9. SA
DD/LEG/OCA

10. DD/LEG/OCA

11. OCA Registry

12.

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14.

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★ DELIVERY OF SIGNED
LETTERS BY TUESDAY
25 JULY PRIOR TO
3:45 PM DESIREABLE ★

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EXEC
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